STATE OF ARIZONA FILED

MAY 22 2006

#### STATE OF ARIZONA

# DEPT OF INSURANCE

#### DEPARTMENT OF INSURANCE

In the Matter of:	) Docket No. 06A-077-11
HEALTH NET OF ARIZONA, INC., NAIC #95206;	) ) ) CONSENT ORDER
Respondent.	)

Examiners for the Department of Insurance (the "Department") conducted a compliance examination ("Examination") of Health Net of Arizona, Inc. ("HNA") covering the time period from July 14, 2003 through November 30, 2003. The Report of the Consent Examination of HNA dated September 1, 2004 ("Report"), which is included herein by reference, alleges that HNA violated A.R.S. §§ 142(A) and (B). HNA wishes to resolve this matter without formal proceedings. HNA admits the following Findings of Fact are true solely for purposes of resolving the allegations contained in the Report. HNA consents to the entry of the following Conclusions of Law and Order.

## **FINDINGS OF FACT**

- HNA is authorized to operate as a health care services organization pursuant to a
   Certificate of Authority issued by the Director.
- 2. On July 14, 2003, the Department filed a Consent Order dated July 14, 2003 between the Department and HNA (the "Previous Consent Order") in which HNA agreed to implement four Corrective Action Plans ("CAPs 1, 2, 3 and 4"). Based on the Examination, the Department determined that:
  - A. HNA failed to comply with CAP 1 of the Previous Consent Order. HNA made progress toward the deficiency corrections required in CAP 1.
  - B. HNA failed to timely comply with CAP 3 of the Previous Consent Order. HNA subsequently complied with CAP 3.

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## **CONCLUSIONS OF LAW**

- The Previous Consent Order is a lawful order of the Director. The Director has the authority to enforce any lawful order. A.R.S. §§ 20-142(A) and (B).
  - 2. Violations of A.R.S. §§ 20-142(A) and (B).
    - A. HNA's failure to comply with CAP 1 of the Previous Consent Order constitutes a violation of A.R.S. §§ 20-142(A) and (B).
    - B. HNA's failure to timely comply with Cap 3 of the Previous Consent Order constitutes a violation of A.R.S. §§ 20-142(A) and (B).
- 3. The Director has grounds to impose a civil penalty on HNA for these violations pursuant to A.R.S. § 20-1065(E).

## <u>ORDER</u>

#### IT IS HEREBY ORDERED THAT:

- 1. On the 15<sup>th</sup> day of each month, beginning June 15, 2006 HNA shall submit to the Department for the Director's review information adequate to allow the Department to determine whether HNA has complied with CAP 1 of the Previous Consent Order, specifically:
- a. Whether HNA pends no less than ninety-five percent (95%) of unclean claims before requesting additional information, rather than denying such claims. Unless permitted otherwise by the Director in advance in writing, the information that HNA submits to the Director under this subsection of this Consent Order shall include, without limitation, the following data for the previous calendar month:
  - i. The number of claims that HNA denied because the claims were not clean, and
- ii. The number of claims that HNA pended because the claims were not clean.
- b. Whether, when it receives additional information, HNA links the additional information to the pended, unclean claim (the "pended claim") no less than ninety-five percent HNA 2 count ord fol 05.06.Doc -2-

(95%) of the time. In this Consent Order, the term "additional Information" includes duplicate claims that contain information that HNA has requested in order to adjudicate an unclean claim. Unless permitted otherwise by the Director in advance in writing, the information that HNA submits to the Director under this subsection of this Consent Order shall include without limitation the following data for the previous calendar month:

- i. The number of pended claims that HNA failed to adjudicate after it received additional information that related to the pended claims, and
- ii. The number of pended claims that HNA adjudicated after it received additional information that related to the pended claims.
- c. Whether HNA auto denies no less than ninety-five percent (95%) of pended claims with regard to which it has not received additional information in a designated, reasonable number of days. Unless permitted otherwise by the Director in advance in writing, the information that HNA submits to the Director under this subsection of this Consent Order shall include without limitation the following data for the previous calendar month:
- i. The number of pended claims that HNA failed to auto deny when it did not receive additional information, and
- ii. The number of pended claims that HNA auto denied when it did not receive additional information.
- 2. In this Consent Order, the terms "auto deny" or "auto denied" refer to a process by which HNA denies claims it pended in order to request additional information when it has not received the additional information in a designated, reasonable number of days.
- The information described in Order No. 1 above shall include the required data for professional, outpatient and inpatient claims that HNA received on or after January 1, 2006.
- 4. HNA shall continue the monthly submissions described in Order No. 1 until the Director determines from the submitted information that HNA has complied with CAP 1 of the Previous Consent Order for six months in a row, and notifies HNA of that determination in HNA 2 const ord fol 05.06.Doc -3-

- 5. HNA shall make no objection to the Department using examiners or other
  authorized representatives to verify the data HNA submits to the Department under Order No.
  1 above and to verify that that HNA has complied with all provisions of this Order.
- 6. HNA shall pay a civil penalty of \$2,000 to the Director for deposit in the State

  General Fund for violating a lawful order of the Director. HNA shall pay this penalty at the time it signs and returns this Consent Order to the Director.

Upon receiving this signed Consent Order and penalty payment from HNA, the Director shall file the Consent Order, along with the Report and HNA's response to the Report, if any.

DATED at Phoenix, Arizona this 19th day of May 2006.

Christina Urias
Director of Insurance

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## **CONSENT TO ORDER**

- 1. HNA has reviewed the foregoing Order.
- 2. HNA admits the jurisdiction of the Director of Insurance, State of Arizona, admits the following Findings of Fact are true solely for purposes of resolving the allegations contained in the Report and consents to the entry of the Conclusions of Law and Order.
- HNA is aware of the right to a hearing, at which it may be represented by 3. counsel, present evidence and cross-examine witnesses. HNA irrevocably waives the right to such notice and hearing and to any court appeals related to this Order.
- 4. HNA states that no promise of any kind or nature whatsoever was made to it to induce it to enter into this Consent Order and that it has entered into this Consent Order voluntarily.
- 5. HNA acknowledges that the acceptance of this Order by the Director of the Arizona Department of Insurance is solely for the purpose of settling this matter and does not preclude any other agency or officer of this state or its subdivisions or any other person from instituting proceedings, whether civil, criminal, or administrative, as may be appropriate now or in the future and does nor preclude this agency from instituting proceedings not related to this matter as may be appropriate now or in the future.
- 6. Mark El-Tawil, who holds the office of President and Chief Executive Officer of HNA is authorized to enter into this Order for it and on its behalf.

HEALTH NET OF ARIZONA, INC.,

1	COPY of the foregoing mailed/delivered
2	this <u>22nd</u> day of <u>May</u> , 2006, to:
3	Gerrie Marks
4	Deputy Director Mary Butterfield
5	Assistant Director Consumer Affairs Division
6	Paul J. Hogan Division Chief
7	Market Oversight Division Dean Ehler
8	Assistant Director Property & Casualty Division
9	Steve Ferguson Assistant Director
10	Financial Affairs Division Alan Griffieth
11	Chief Financial Examiner Financial Affairs Division
12	Alexandra Shafer Assistant Director
13	Life and Health Division Terry L. Cooper
14	Unit Chief Fraud Unit
15	DEPARTMENT OF INSURANCE
	2910 North 44th Street, Suite 210
16	Phoenix, AZ 85018
17	Health Net of Arizona, Inc.
18	Mark El-Tawil, President and CEO 1230 West Washington Street, Suite 400
19	Tempe, Arizona 85281-1245
20	
21	Cioney Buston
22	·
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